Supreme Court, U.S.
FILED
APR 30 2001

No. 00-973

In the Supreme Court of the United States

UNITED STATES OF AMERICA, PETITIONER

v.

ALPHONSO VONN

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JOINT APPENDIX

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PETITION FOR WRIT OF CERTIORARI FILED: DEC. 13, 2000
CERTIORARI GRANTED: FEB. 26, 2001

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NOTICE

The following items have been omitted in printing this appendix because they appear on the following pages in the printed appendix to the petition for a writ of certiorari:

Judgment of conviction (June 29, 1998)	23a
Initial decision of court of appeals (Apr. 20, 2000)	11a
Decision of court of appeals on rehearing (Sept. 14, 2000)	1a

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

No. 97-CR-233-ALL

UNITED STATES OF AMERICA, PETITIONER

v.

ALPHONSO VONN

[Filed: March 14, 1997]

DOCKET ENTRIES

DATE	DOCKET NUMBER	DOCKET ENTRIES
2/28/97	1	COMPLAINT filed against Alphonso Vonn in violation of 18:2113(a)(d) & 924(c). Approved by Magistrate Judge Andrew J. Wistrich. [2:97-m-434] (ca) [Entry date 03/13/97]
		* * * * *
2/28/97	14	REPORT COMMENCING CRIMINAL ACTION as to Alphonso Vonn arrested on 2/28/97 Defendant's date of birth: 9/27/75. [2:97-m -434] (ca) [Entry date 03/13/97]

DATE	DOCKET NUMBER	DOCKET ENTRIES
		* * * * *
2/28/97	16	FINANCIAL AFFIDAVIT filed as to Alphonso Vonn. [2:97-m -434] (ca) [Entry date 03/13/97]
		* * * * *
2/28/97	18	MINUTES OF ARRAIGNMENT ON MAGISTRATE COMPLAINT held before Magistrate Judge Andrew J. Wistrich as to Alphonso Vonn: Defendant arraigned and states true name as charged. First appearance of Alphonso Vonn entered. DFPD Attorney Humberto Diaz present as to Alphonso Vonn. Bail set at detention. Defendant committed to the custody of the U.S. Marshal. Crt ords preliminary hearing set for 4:30pm, 3/14/97; post indictment arraignment set for 8:30am, 3/17/97 for Alphonso Vonn; detention hearing set for 11:30am, 3/4/97 for Alphonso Vonn Tape No.: 97-22 [2:97-m -434] (ca) [Entry date 03/13/97]
		* * * * *

DATE	DOCKET NUMBER	DOCKET ENTRIES
3/14/97	21	INDICTMENT filed against Alphonso Vonn (1) count(s) 1, 2, James Andre Cox (2) count(s) 1, 2, Gregory Lee Turner (3) count(s) 1, 2 filed by AUSA Terri Law. Offense occurred in LA. (dm) [Entry date 03/14/97]
		* * * * *
3/17/97	26	MINUTES OF POST-INDICTMENT ARRAIGNMENT HEARING held before Magistrate Judge Virginia A. Phillips as to Alphonso Vonn (1) count(s) 1, 2, James Andre Cox (2) count(s) 1, 2, Gregory Lee Turner (3) count(s) 1, 2. Case reassigned to Judge James M. Ideman. Alphonso Vonn (1) count(s) 1, 2, James Andre Cox (2) count(s) 1, 2, Gregory Lee Turner (3) 1, 2 arrn and states true name as charged. DFPD Atty Derek Li, CJA Richard P. Lasting, CJA Phillip Deitch pres. *Terminating atty Humberto Diaz for Alphonso Vonn; atty William L.

DATE	DOCKET NUMBER	DOCKET ENTRIES
		0'Bryan for Gregory Lee Turner, atty Christopher Stephen Dombrowski for James Andre. Plea and trial setting set for 1:30 pm on 3/17/97. Tape No.: 1024/1025 (mc) [Entry date 04/04/97]
3/17/97	27	STATEMENT OF DEFENDANT'S CONSTITUTIONAL RIGHTS filed as to Alphonso Vonn. (mc) [Entry date 04/04/97]
		* * * * *
5/5/97	47	MINUTES OF STATUS CONFERENCE held before Judge James M. Ideman as to Alphonso Vonn: Dft wants to go forward w/change of plea. Cnsl is not prepared to go forward today. Matter cont to 5/12/97 at 1:30pm for fur S/C for Alphonso Vonn. C/R: Deborah Gackle (mc) [Entry date 05/12/97]

DATE	DOCKET NUMBER	DOCKET ENTRIES
5/12/97	48	MINUTES OF CHANGE OF PLEA HEARING held before Judge James M. Ideman as to Alphonso Vonn: Defendant moves to change plea to the Indict. Plea of guilty entered by Alphonso Vonn (1) count(s) 1. The Court questions the defendant regarding plea of guilty and finds it knowledgeable and voluntary and orders the plea accepted and entered. The Court refers Alphonso Vonn to the Probation Office for investigation and report. Sent set for 1:30pm on 9/15/97 for Alphonso Vonn. C/R: Deborah Gackle (mc) [Entry date 05/14/97]
		* * * * *
6/9/97	51	STIPULATION Re cont of trial date AND ORDER filed by Judge James M. Ideman as to Alphonso Vonn, James Andre Cox, Gregory Lee Turner: It is so ord that trial be cont to 8/12/97. (mc) [Entry date 06/11/97]
		* * * * *

DATE	DOCKET NUMBER	DOCKET ENTRIES
7/29/97	57	FIRST SUPERSEDING INDICTMENT filed against Alphonso Vonn (1). count(s) 1s, 3s, Gregory Lee Turner (3) count(s) 1s, 2s, 3s. AUSA Elaine Lu (ca) [Entry date 07/31/97]
		* * * * *
9/3/97	70	MINUTES OF CHANGE OF PLEA HEARING held before Judge James M. Ideman as to Alphonso Vonn: Defendant moves to change plea to the plea of guilty entered by Alphonso Vonn (1) count(s) 1s, 3s. The Court refers Alphonso Vonn to the Probation Office for investigation and report.,; sentence hearing set for 1:30 12/15/97 for Alphonso Vonn, C/R: Deborah Gackle (rm) [Entry date 09/08/97]
9/9/97	71	AMENDED MINUTES OF CHANGE OF PLEA HEARING held before Judge James M. Ideman as to Alphonso Vonn: Defendant moves to change plea to the plea of guilty

DATE	DOCKET NUMBER	DOCKET ENTRIES
		entered by Alphonso Vonn (1) count(s) 1s, 3s,; sentence hearing set for 1:30 1/12/98 for Alphonso Vonn, Tape No.: C/R: Deborah Gackle (rm) [Entry date 09/12/97]
		* * * * *
5/14/98	84	NOTICE OF MOTION; MOTION filed by Alphonso Vonn for withdrawal of guilty plea Declar of cnsl; exhibits Returnable on: 6/8/98, 1:30 p.m.. (ca) [Entry date 05/15/98]
		* * * * *
6/8/98	87	MINUTES OF MOTION FOR WITHDRAWAL OF GUILTY PLEA AS TO COUNT 3 (SENTENCING 6/22/98) HEARING held before Judge James M. Ideman as to Alphonso Vonn: crt hears frm dft cnsl re opposition of AUSA. Crt finds dft under oath, clearly indicated his guilt; denying motion for withdrawal of guilty plea [84-1] C/R: Irene Nakamura (ca) [Entry date 06/11/98]
		* * * * *

DATE	DOCKET NUMBER	DOCKET ENTRIES
6/22/98	98	MINUTES OF SENTENCING held before Judge James M. Ideman as to Alphonso Vonn (1) count(s) 1, 1s, 3s. CTS 1, 1s & 3s: Dft hereby comm to BOP for a term of 37 mos as to ct 1 of CR 97-233 & ct 1 of CR 97-233(a), said terms to be svd conc w/each othr & 60 mos as to ct 3 of CR 97-233(a), to be svd cons to the other term imposed for a total of 97 mos. Upon release frm imprisonment dft shall be placed on supv rel for a trm of 3 yrs, as to ct 1 of CR 97-233 & cts 1 & 3 CR 97-233(a), said terms to be svd conc w/each other under the following terms & cond's: comply w/rules & reg of the PO & GO 318: all fines are waived, including the costs of imprisonment & supv, as it is found tht dft does not hv the ability to pay. Dft is ord to pay a s/a of $300.00; dft is given his rights on appeal; crt recommends designation to a S/C facility to facilitate visitation by relatives. dismissing count(s) as to AlphonsoVonn (1) count(s) 2.

DATE	DOCKET NUMBER	DOCKET ENTRIES
		Ct 2 is dismissed in the interest of justice, C/R: Buford James (ca) [Entry date 07/02/98]
6/23/98	95	ORDER filed by Judge James M. Ideman as to Alphonso Vonn: denying motion for withdrawal of guilty plea [84-1] (cc: all counsel) (ca) [Entry date 06/24/98]
		* * * * *
6/29/98	99	JUDGMENT AND COMMITMENT issued to U.S. Marshal for Alphonso Vonn Approved by Judge James M. Ideman. Entered on: 7/2/98. (ca) [Entry date 07/02/98]

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Court of Appeals Docket #: 98-50385

UNITED STATES OF AMERICA, PETITIONER

v.

ALPHONSO VONN

Appeal from: Central District of California,
Los Angeles

[Filed: July 10, 1998]

DOCKET ENTRIES

DATE	PROCEEDINGS
9/16/99	ARGUED AND SUBMITTED TO James R. BROWNING, Alex KOZINSKI, Kim M. WARDLAW [98-50384, 98-50385] (rmw) [98-50384 98-50385]

* * * * *

DATE	PROCEEDINGS
4/20/00	FILED OPINION: VACATED and REMANDED. (Terminated on the Merits after Oral Hearing; Remanded; Written, Signed, Published. James R. BROWNING; Alex KOZINSKI, author; Kim M. WARDLAW.) FILED AND ENTERED JUDGMENT. [98-50385] (ca) [98-50385]
6/5/00	[3923333] Filed original and 3 copies of Appellee USA's petition for rehearing of 11 pages and 1 supplemental excerpt of record in 1 volume; served on 6/2/00. (PANEL) (ca)
6/5/00	Filed USA's motion to expand the record; served o 0/02/00. (Faxed to PANEL) [98-50385] (ca) [98-50385]
6/8/00	Received Appellant Alphonso Vonn's opposition to government's petition for rehearing; served on 6/7/00. (PANEL) [98-50385] (ca) [98-50385]
9/14/00	Filed order and amended opinion (Judges James R. BROWNING, Alex KOZINSKI, Kim Mclane WARDLAW) (Orig. opinion id:) The opinion filed 4/20/00, and reported at 211 F.3d 1109, is withdrawn and superseded by the attached opinion. The petition for rehearing is otherwise DENIED. [98-50385] (ca) [98-50385]

* * * * *

CRIMINAL COMPLAINT

Rev. 11/82

UNITED STATES DISTRICT COURT	CENTRAL DISTRICT OF CALIFORNIA
UNITED STATES OF AMERICA v. ALPHONSO VONN, JAMES ANDRE COX, and GREGORY LEE TURNER	Docket No.
	Magistrate's Case No. 97-
Complaint for violation of Title 18, United States Code § 2113(a)(d) & 924(c)	

Name of Magistrate Judge ANDREW J. WISTRICH	UNITED STATES MAGISTRATE JUDGE	Location Los Angeles, CA

Date of Offense 2/24/97	Place of Offense Los Angeles County	Address of Accused (If known)

Complainant's Statement of Facts Constituting the Offense or Violation:

COUNT ONE - 18 U.S.C. § 2113(a)(d)

On or about Febraury 27, 1997, in Los Angeles County, within the Central District of California, defendants ALPHONSO VONN, JAMES ANDRE COX, and GREGORY LEE TURNER, by force, violence and intimidation, took from the person or presence of another approximately $209.00, belonging to and in the care, custody, control, management and possession of Farmers and Merchants Bank, 1401 Long Beach Blvd., Long Beach, California, a bank whose deposits were then insured by the Federal Deposit Insurance Corportation.

In committing the offense, defendants ALPHONSO VONN, JAMES ANDRE COX, and GREGORY LEE TURNER assaulted persons inside the bank by use of a gun, a dangerous weapon and device.

COUNT TWO - 18 U.S.C. § 924(c)

On or about February 27, 1997, in Los Angeles County, within the Central District of California, defendants ALPHONSO VONN, JAMES ANDRE COX, and GREGORY LEE TURNER used and carried a firearm in connection with the commission of a crime of violence, in violation of Title 18, United States Code, Section 924(c).

BASIS OF COMPLAINANT'S CHARGE AGAINST THE ACCUSED:
(See attached affidavit which is incorporated as part of this Complaint)

Material witnesses in relation to this charge:

Being duly sworn, I declare that the foregoing is true and correct to the best of my knowlege	Signature of Complainant SALLY A. BROWN
	Official Title Special Agent - FBI

Sworn to before me and subscribed in my presence,

Signature of Magistrate Judge (1)	**DATE** February 28, 1997

1) See Federal Rules of Criminal Procedure rules 3 and 54.
TL: deny REC: DETENTION (for all defendants)

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Nos. 97-434M(3) and 97-434M(1)

UNITED STATES OF AMERICA, PLAINTIFF

v.

GREGORY LEE TURNER,
ALPHONSO VONN, DEFENDANTS

ARRAIGNMENT

[Feb. 28, 1997]

BEFORE: HONORABLE ANDREW J. WISTRICH
UNITED STATES DISTRICT MAGISTRATE JUDGE.

[4] Los Angles, California; February 28, 1997

THE CLERK: Criminal Calendar, Judge Wistrich, February 28, 1997.

The HONORABLE ANDREW J. WISTRICH, United States Magistrate Judge Presiding.

THE COURT: Before the afternoon calendar is called, I will advise all defendants present of their constitutional and statutory rights in connection with these proceedings.

You are here because you've been charged with a criminal offense against the United States. You have received, or soon will receive a copy of the formal papers summarizing the charges against you.

You have the following constitutional and statutory rights. Please listen carefully.

You have the right to retain and to be represented by an attorney of your own choosing at each and every state of the proceedings against you.

If you cannot afford an attorney, you have the right to request that the Court appoint an attorney to represent you.

The appointed attorney will be paid by the Government at no cost to you. You must, however, submit a financial affidavit to the Court before Counsel may be appointed.

[5] If you make any false, misleading or incomplete statements in your financial affidavit, you may be subject to further prosecution for a separate violation of federal law.

You have the right to remain silent. If you start to make a statement, you may stop at any time.

Anything that you do say, sign or write which tends to incriminate you may be introduced against you in this or in any other court proceeding.

You have the right to have the issue of your release on bail or detention in custody prior to trial determined in accordance with the provisions of the Bail Reform Act.

If the Government seeks detention, you have the right to a hearing on the issue on the day of your first appearance in Court or within three to five court days thereafter.

If you [are] ordered detained in custody prior to trial, you have the right upon application to have the decision reviewed by a District Judge of this Court.

You are entitled to be present at any future hearing where further evidence or argument will be heard regarding the issue of detention in custody or release on bail.

You also have the right to a preliminary hearing or to have the case presented to the grand jury within 10 days [6] of this date if you're in custody and within 20 days of this date if you are released on bond.

A preliminary hearing is a proceeding in which the Government presents its evidence and a decision is reached as to whether there is probable cause to believe that the offense charged was committed, and that you are the person who committed it.

If probable cause is not found, the matter will be dismissed. If probable cause is found, you will then be required to enter a plea to the charges against you.

Some of you may be here because you've been charged in an out-of-district complaint or indictment. If so, you will be informed of the charges against you.

If the formal papers have not yet been filed in this Court, you may request a continuance for arrival of process.

If you wish, you may waive all further proceedings in this Court, and request that you either be transported or permitted to appear in the district where the charges against you originated.

If you do not wish to waive process and return to the other district, you have the right to a removal hearing. Such a hearing includes a determination of probable cause, if one has not already been made in your case, and of your identity.

[7] Unless waived, a removal hearing must be held before you can be required to answer charges against you in another district.

If you wish to plead guilty to the charges against you, and to do so in this district, your attorney may request a continuance so that the consent of the United States Attorney in this district and the charging district may be obtained.

* * * * *

[9] THE CLERK: 97-434M(1), United States of America versus Alphonso Vonn.

MR. DIAZ: Good afternoon, Your Honor. Humberto Diaz seeking appointment of counsel on behalf of Mr. Vonn who is present.

[10] MR. ARIAN: Good afternoon, Your Honor. Lee Arian again for the Unitd States.

THE COURT: Good afternoon, Counsel.

Mr. Vonn, please state your true and complete name.

DEFENDANT VONN: Alphonso Vonn.

THE COURT: Were you present in Court earlier while I explained your rights?

DEFENDANT VONN: Yes, sir.

THE COURT: Were you able to hear and understand that explanation?

DEFENDANT VONN: Yes, sir.

THE COURT: Did you sign this financial affidavit seeking appointment of counsel?

DEFENDANT VONN: Yes, sir.

THE COURT: Are the statements contained in it true and complete?

DEFENDANT VONN: Yes, sir.

THE COURT: Based on the information contained in your affidavit, I find that you are eligible for appointment of counsel. Mr. Diaz is appointed to represent you.

Have you received a copy of the charges against you, Sir?

DEFENDANT VONN: Yes, sir.

THE COURT: You're satisfied that you understand what it is that you're being accused of?

[11] DEFENDANT VONN: I understand, sir.

* * * * *

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CR 97-233

UNITED STATES OF AMERICA, PLAINTIFF

v.

ALPHONSO VONN, JAMES ANDRE COX,
AND GREGORY LEE TURNER, DEFENDANTS

INDICTMENT

[18 U.S.C. § 2113(a)(d): Armed
Bank Robbery; 18 U.S.C. § 924(c):
Using and Carrying a Firearm
During a Crime of Violence]

[February 1997
Grand Jury]

The Grand Jury charges:

COUNT ONE

[18 U.S.C. § 2113(a)(d)]

On or about February 27, 1997, in Los Angeles County, within the Central District of California, defendants ALPHONSO VONN, JAMES ANDRE COX, and GREGORY LEE TURNER, by force, violence and intimidation, knowingly took from the person or pre-

sence of another approximately $209.00 belonging to and in the care, custody, control, management, and possession of Farmers and Merchants Bank, 1401 Long Beach Blvd., Long Beach, California, a bank the deposits of which were then insured by the Federal Deposit Insurance Corporation.

In committing said offense, defendants assaulted and put in jeopardy the life of victim teller Lorida Lee Parker and others by using a gun, a dangerous weapon and device.

COUNT TWO

[18 U.S.C. § 924(c)]

On or about February 27, 1997, in Los Angeles County, within the Central District of California, defendants ALPHONSO VONN, JAMES ANDRE COX, and GREGORY LEE TURNER knowingly used and carried a firearm, namely, a semi-automatic handgun during and in relation to a crime of violence, namely, bank robbery of Farmers & Merchants Bank, 1401 Long Beach Blvd., California, in violation of Title 18, United States Code, Section 2113(a)(d).

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

No. CR 97-233-JMI

UNITED STATES OF AMERICA, PLAINTIFF

v.

ALPHONSO VONN, JAMES ANDRE COX,
AND GREGORY LEE TURNER, DEFENDANTS

POST-INDICTMENT ARRAIGNMENT

[March 17, 1997]

BEFORE: HONORABLE VIRGINIA A. PHILLIPS
UNITED SATES MAGISTRATE JUDGE.

[4] Los Angeles, California; Monday, March 17, 1997

THE CLERK: Post-indictment araignment on Monday, March 17th, 1997 before MAGISTRATE JUDGE VIRGINIA A. PHILLIPS. This is Tape Number 1024.

You may be seated.

THE COURT: Good morning.

Before the arraignment calendar is called this morning, I want to advise the Defendants of their constitutional rights and explain the procedures followed in this Court.

Each Defendant is here this morning because—

(PAUSE IN PROCEEDINGS.)

THE COURT: All right. Each Defendant is here this morning because he or she has been charged with a violation of federal law.

The charge against you is contained in an indictment or information, and a copy of the charge has been given to you or will be given to you this morning. And later today you'll be called on to plead either guilty or not guilty to each charge.

You have the following constitutional rights.

First, you're entitled to a speedy and public trial by a jury or by a judge alone if jury is waived.

You're entitled to be represented by counsel at all stages of the proceedings. If you don't have the money or [5] means to hire an attorney, I will appoint an attorney to represent you without cost or expense to you.

However, you're advised that you must complete a financial statement before counsel will be assigned. And if you give a false or dishonest answer to any question contained in a financial statement, or if you willfully fail to respond to the questions accurately, you may be prosecuted for a violation of federal law.

You are entitled to see and hear the evidence and the witnesses against you and to cross-examine the witnesses.

You're entitled to subpoena witnesses and to compel the production of other evidence on your own behalf.

You have the right to have the Court consider the conditions of your release in accordance with the Bail Reform Act of 1984.

If the Government seeks to have you detained while you wait for trial, you have the right to a hearing on the first day of your appearance in Court or within three to five days of your first Court appearance if a continuance is requested by either the defense or the prosecution and the request is granted.

It is not necessary for you to prove your innocence. It is the burden of the Government to prove your guilt beyond a reasonable doubt.

For your plea and for all further proceedings, your [6] case will be transferred to a District Judge of this Court. The particular Judge for your case will be selected by lot after you've been arraigned.

All motions are reserved and must be made before the Judge to whom the case is transferred.

Where a particular case involves more than one Defendant, all Defendants are required to appear before the Judge to whom that case is transferred.

If the District Judge has requested that the Magistrate Judge receive a not guilty plea, he'll be asked to plead and a trial date will be set.

The Clerk has designated the Federal Public Defender and members of the Indigent Panel to represent certain defendants this morning. The attorneys so

designated are hereby appointed in the respective cases to which they have been assigned.

If private counsel is appearing for any defendant for whom a court-appointed attorney was previously designated, private counsel should make his or her presence known and file his or her praecipe. And the court-appointed attorney will then be relieved.

When I transfer a case to a Judge of this Court and announce the time for appearance, Defendant and Counsel of Record are ordered to appear before that Judge at the time that I specify.

[7] If counsel have appearances this morning or afternoon at the same time in more than one court, counsel are directed to appear first in the court of the judge who has senior status on the court.

However, if counsel is direct to appear in two or more courts at different times, counsel shall first attend the court which has fixed the earlier hours of convening.

All right. The Clerk may call the calendar.

(Subseqent proceedings recorded, but not transcribed.)

THE CLERK: Calling Item 8, CR 97-233, U.S.A. versus Alphonso Vonn, James Andre Cox and Gregory Lee Turner.

MR. LI: Good morning, Your Honor. Derek Li appearing with Alphonso Vonn, who is present. My office has been previously appointed.

His thing on the constitutional rights has been filed. Because Mr. Vonn has a broken arm, he was not able to sign it. But the mark on the signature line was his.

THE COURT: Thank you.

[8] THE CLERK: Is Alphonso Vonn you true name?

DEFENDANT VONN: Yes, Ma'am.

THE CLERK: Did you hear and understand the statements of this Court—

DEFENDANT VONN: Yes.

THE CLERK: —Pertaining to your rights and the appointment of counsel?

DEFENDANT VONN: Yes.

THE CLERK: Did you see and sign a statement of your rights?

DEFENDANT VONN: Yes.

THE CLERK: Did you receive a copy of the indictment?

DEFENDANT VONN: Yes.

THE CLERK: Would you like the indictment read to you?

DEFENDANT VONN: No.

THE CLERK: No. Thank you.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA PLAINTIFF(S), -vs- ALPHONSO VONN DEFENDANT(S).	CASE NUMBER CR 97-233 STATEMENT OF DEFENDANT'S CONSTITUTIONAL RIGHTS

You are here for arraignment and plea upon an indictment or information filed against you, a copy of which will be given to you.

You are entitled to a speedy and public trial by jury. If you wish to waive a jury trial, you may be tried by the Court sitting without a jury.

You are entitled to be represented by counsel at all stages of the proceedings against you. If you do not have the funds or the means to hire a lawyer, tell the Magistrate Judge and he will appoint a member of the Indigent Defense Panel or a Deputy Federal Public Defender to represent you without cost to you.

You are entitled to see and hear the evidence and cross-examine witnesses against you. You are entitled to the processes of the Court to subpoena witnesses on your behalf without cost to you if you are indigent. It is not necessary to prove your innocence. It is the burden of the government to prove, by competent evidence, your guilt beyond a reasonable doubt.

If you desire to plead guilty, you will be further questioned by a Court to ascertain whether or not your plea is voluntary. In the event your plea is accepted, the Court will sentence you after referral to the Probation Officer for presentence report. This procedure usually takes about ten (10) weeks. Before accepting a plea of guilty, the Judge expects that you have discussed your case fully with your lawyer and have been fully advised of all the defenses you may have. You will be expected to know the maximum and minimum sentence you can receive on your plea of guilty.

No one should plead guilty unless he is in fact guilty of the charges made against him/her in the indictment or information. Do not plead guilty if there have been any threats made against your or any member of your family by anyone. Do not plead guilty if there have been any promises of leniency or a particular sentence made to you by anyone including your own lawyer. No one has the authority to make any promises to you concerning sentence.

Your case will be referred to one of the Judges of this Court for all other proceedings. The name of the Judge will be drawn after your arraignment and all further proceedings will be before that Judge.

(OVER)

ACKNOWLEDGMENT OF DEFENDANT:

I have read the above Statement of Rights and understand them. I do not require a translation of this statement nor do I require an interpreter for court proceedings.

Dated: March 17, 1997 X
Signature of Defendant

[(Mark made by Mr. Vonn, who could not sign because of a broken arm)]

[OR]

I have personally heard a translation in_____language read to me and understand the above Statement of Rights.

Dated: _____ _____
Signature of Defendant

Have you received a copy of the Indictment/ Information? ☒ Yes ☐ No

Do you have an attorney? ☒ Yes ☐ No

If yes, Attorney's name: Derek W. Li (Please Print)
☐ Retained
☐ Appointed
☒ DFPD

STATEMENT OF INTERPRETER:

I have translated the Statement of Rights to the defendant in the _____ language.

Dated: _____ _____
Signature of Interpreter

_____
(PLEASE PRINT NAME)

STATEMENT OF COUNSEL:

I am satisfied that the defendant has read this Statement of Rights (and the translation thereof, if necessary) and that he/she understands them.

Dated: March 17, 1997 /s/ Derek Li
Signature of Attorney

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

No. CR 96-233-JMI

UNITED STATES OF AMERICA, PLAINTIFF

v.

ALPHONSO VONN, JAMES ANDRE COX,
AND GREGORY LEE TURNER, DEFENDANTS

STATUS CONFERENCE

[May 5, 1997]

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[3] THE CLERK: Item No. 4, CR 97-233-JMI, United States of America versus Alphonso Vonn and James Andre Cox.

Counsel.

MS. LU: Good afternoon, Your Honor. Elaine Lu appearing on behalf of the United States.

MR. LASTING: Good afternoon, again, Richard Lasting with Mr. Cox.

MR. LI: Good afternoon, Your Honor. Derek Li appearing with Alphonso Vonn, who is present.

* * * * *

[12] THE COURT: Mr. Li, are you in position to do anything with Mr. Vonn?

MR. LI: May I have just a moment, Your Honor?

THE COURT: Yes.

DEFENDANT VONN: Excuse me, Your Honor, may I speak on my behalf, please?

THE COURT: All right.

DEFENDANT VONN: I'm not quite understanding what he's trying to—what's the information given to me, because I don't know nothing about the system. So I don't really know—understand what he is saying.

[13] THE COURT: Maybe you ought to take some more time to talk to him. You can either talk—I can handle it later in the afternoon or next Monday, Mr. Li.

MR. LI: Your Honor, I would request later this afternoon, would be sufficient. I just need more time to talk to my client.

THE COURT: Okay. Sit down and talk to him some more then. Explain things to him. I'll call it later.

(Unrelated matters reported, not transcribed herein.)

THE CLERK: Item No. 4, CR-233-JMI, United States of America versus Alphonso Vonn.

Counsel.

MS. LU: Your Honor, once again, Elaine Lu appearing on behalf of the United States.

MR. LI: Good afternoon, Your Honor. Derek Li appearing with Alphonso Vonn.

Your Honor, I understand that Mr. Vonn wants to go ahead with the change of plea. I'm not prepared to go forward. I believe I need to talk to my client further before we can go forward with a change of plea.

THE COURT: Okay.

Vonn, you don't want to rush it now. If your attorney wants to look at all the details—another week is not going to make any difference to you. The time will count. You'll get credit for the time. You won't have to do any more time for the [14] week. Give him a chance to look at it and make sure it's all signed and sealed and done the way he thinks it ought to be. Always in your best interest to do that. He's a good lawyer. Listen to him and don't be rushing in if he is not ready.

DEFENDANT VONN: He came down to see me last week, so I think that what we discussed before today—

THE COURT: Let's give him a week to get this all wrapped up, and we'll take it next Monday at 1:30. I'll calendar it for a further status conference at 1:30, Monday, the 12th.

Yes, sir?

DEFENDANT VONN: Is it mandatory that we postpone this?

THE COURT: If he is not ready, I hesitate to go forward over your attorney's objections. That complicates things, Mr. Vonn. I know you want to get it over with, but let's wait one more week. Make sure it's done

to your attorney's satisfaction. It can only be to your benefit. It's not going to hurt you. It can only be to your benefit. And the week counts.

DEFENDANT VONN: Is there any way I can change my defense right here, get a new lawyer or something?

THE COURT: You can hire one if you have the money. But you'd have to give me a good reason to fire this one. And I don't see any good reason for it.

DEFENDANT VONN: Because he's not explaining everything [15] to me right.

THE COURT: That is why he wants some more time to do it. That is exactly what he wants, is time to explain things and to review it, make sure it's all done properly.

DEFENDANT VONN: I understand that, Your Honor.

THE COURT: You have confidence in him. He'll do a good job for you.

DEFENDANT VONN: He comes down to see me a lot, and it's still not adding up.

THE COURT: I'm sure it will all be clear you to by next Monday.

Monday the 12th at 1:30 for further status conference.

MR. LI: Thank you, Your Honor.

MS. LU: Thank you, Your Honor.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

No. CR 96-233-JMI

UNITED STATES OF AMERICA, PLAINTIFF

v.

ALPHONSO VONN, DEFENDANT

STATUS CONFERENCE

[May 12, 1997]

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[3] THE CLERK: No. 17, U.S.A. versus Alphonso Vonn.

Counsel, please come forward.

MS. LU: Good afternoon, Your Honor. Elaine Lu appearing on behalf of the United States.

THE COURT: Good afternoon.

MR. LI: Good afternoon, Your Honor. Derek Li appearing with Alphonso Vonn, who is present.

THE COURT: Good afternoon, Counsel.

Mr. Li, what have you decided to do with your client's case?

MR. LI: Your Honor, the Government has charged Mr. Vonn with a two-count indictment. Mr. Vonn is prepared to enter a guilty plea to Count One, which is armed bank robbery.

THE COURT: Agreeable to the Government?

MS. LU: Yes, your Honor.

THE COURT: Mr. Clerk, please swear the defendant.

MS. LU: Although, Your Honor, the Government would still be prepared to proceed to trial with Count Two.

THE COURT: Oh.

Is that your understand, Counsel? Do you and your client understand that the Government wants to pursue the gun allegation apparently?

[4] MR. LI: Yes, I do, Your Honor—

THE COURT: The Government's position is that Mr. Vonn personally used a firearm, right?

MS. LU: Yes.

THE COURT: And he doesn't want to admit that. So he would be admitting the armed bank robbery and admitting that somebody in the group used a gun but not necessarily it was he, right?

MR. LI: Yes, Your Honor. Can I have a moment, Your Honor?

THE COURT: Yes.

(Pause in the proceedings.)

MR. LI: We will proceed, Your Honor.

THE COURT: Is there really any point in taking this plea? If we're going to go through a whole, the jury is going to have to hear the whole case anyway then to figure out whether or not he used a gun.

MR. LI: I understand, Your Honor. But it's my client's desire to plead guilty to Count One.

THE COURT: Of course, it could help him with acceptance of responsibility if he pleads.

Well, all right. I'm sorry, Mr. Clerk. Did you swear him?

THE CLERK: No.

THE COURT: All right. Swear the defendant.

[5] THE CLERK: Sir, please raise your right hand to be sworn.

You do solemnly swear that the answers you will give to the Court's questions will be the truth, the whole truth, and nothing but the truth, so help you God?

THE DEFENDANT: Yes.

THE CLERK: Please state your name.

THE DEFENDANT: Alphonso Vonn.

THE COURT: Mr. Vonn, did you hear what your attorney and the Government attorney said?

THE DEFENDANT: Yes.

THE COURT: Do you still want to plead guilty to armed bank robbery, Count One?

THE DEFENDANT: Yes.

THE COURT: And you understand the Government still wants to try you on Count Two, which is an allegation that you personally used a firearm during the robbery.

Do you understand that?

THE DEFENDANT: Excuse me?

THE COURT: They want to try you on—they think you personally used a gun.

THE DEFENDANT: I understand.

THE COURT: And they want to try you on that charge, and they'll be able to do that.

Do you understand that?

[6] THE DEFENDANT: Yes.

THE COURT: Is there a written plea agreement here? I don't seem to have it if there is.

MS. LU: There is, Your Honor. It hasn't been filed because it hasn't been executed.

THE COURT: It hasn't been signed yet?

MS. LU: No. The plea offer that the Government offered requires the defendant to plead guilty to Count Two.

THE COURT: This isn't the plea agreement that you offered. This is something else?

MS. LU: Yes.

THE COURT: All right, Mr. Vonn, if you plead guilty to Count One you're going to be incurring certain penalties.

Would you tell him what the maximum penalty is for Count One, please, Counsel.

MS. LU: For conviction of 18 U.S.C., section 2113 (a) and (d): Twenty-five years of incarceration and a five-year period of supervised release; a fine of $250,000; and a special assessment of $100.

THE COURT: Are you finished?

MS. LU: Yes, Your Honor.

THE COURT: Tell him what the legal elements of the crime are that you would have to prove for him to be convicted of Count One.

MS. LU: In order to be guilty of violating 18 U.S.C. [7] sections 2113 (a) and (d), defendant must have taken money from a person belonging to a bank whose deposits were then insured by the Federal Deposit Insurance Corporation, through the use of force and violence or intimidation and must have deliberately assaulted the person or put the person—life of the

person in danger by use of a dangerous weapon or device.

THE COURT: Mr. Vonn, do you understand all that?

THE DEFENDANT: Yes.

THE COURT: I can't tell you at this time what your sentence is going to be. I have to get a probation report, and, of course, it's going to be important whether you're convicted of the other count, what your sentence is going be.

But I make you no promises, and I will not let you withdraw your guilty plea because you don't like the sentence.

Do you understand that?

THE DEFENDANT: Yes.

THE COURT: Are you doing this freely and voluntarily?

THE DEFENDANT: Yes.

THE COURT: Counsel, have you conferred with your client and—

MR. LI: Yes, I have, Your Honor.

THE COURT: All right.

Mr. Vonn, you'll be giving up, as to Count One, you'll be giving were certain rights which you enjoy if you plead guilty because you don't have to plead guilty; and your rights [8] are as follows: You have a right against

self-incrimination, and you will incriminate yourself if you plead guilty to this count.

Do you understand that?

THE DEFENDANT: Yes.

THE COURT: You have a right to a trial, by a jury or by a judge without a jury, in Count One.

Do you understand that?

THE DEFENDANT: Yes.

THE COURT: You have a right to confront and cross-examine witnesses who would testify against you.

Do you understand that?

THE DEFENDANT: Yes.

THE COURT: You have a right to present evidence on your own behalf at your trial.

Do you understand that?

THE WITNESS: Yes.

THE COURT: Do you waive your rights?

THE DEFENDANT: Yes.

THE COURT: Counsel, do you join in the waivers?

MR. LI: Yes, your Honor.

THE COURT: Do you believe there is a legal and a factual basis for the plea Count One?

MR. LI: Yes, your Honor.

THE COURT: All right.

[9] Mr. Vonn, in order for me to accept your plea, I have to have an admission from you—or a statement from you as to what happened here.

Counsel for the Government, would you please tell the Court what you would prove if this case went to trial. Omit any allegation that the defendant personally used a firearm because he's contending that he didn't. But I think it's sufficient if you can indicate that somebody may have used a firearm.

Listen to what she says, Mr. Vonn, and see if can you agree with that as far as what you did.

MS. LU: On February 27th, 1997, at approximately 10:00 a.m., defendant Alphonso Vonn, along with James Andre Cox and Gregory Li Turner, entered Farmers and Merchants Bank, located at 1401 Long Beach Boulevard, Long Beach, California.

Once inside the bank, defendants yelled, "This is a holdup. Get down. Get down."

While Cox and Turner pointed handguns at tellers and customers, defendant Vonn vaulted over the counter —"

THE COURT: Wait, wait. While what?

MS. LU: While co-defendants Cox and Turner pointed handguns at tellers and customers, defendant Vonn vaulted over the counter, demanded money while using a dangerous weapon at a victim teller and directed the victim teller to place money into a large canvas bag.

Defendant Vonn then took money belonging to Farmers and [10] Merchants Bank totalling approximately $209.

At the time of the robbery, Farmer and Merchants Bank was a federally insured financial institution.

At the time of the robbery, defendant's fellow bank robberies each carried a gun and used the gun during the bank robbery. The guns included a loaded an operational .380 caliber semiautomatic pistol; a loaded and operational .357 caliber revolver.

THE COURT: Is that acceptable, Mr. Vonn?

MR. LI: Your Honor, first of all, Mr. Vonn will object to the naming of other defendants, specifically Mr. Cox and Mr. Turner. I think he would admit that he and others went inside the bank—

THE COURT: All right. He doesn't want to be in a position of informing on them, right?

MR. LI: Yes, your Honor.

THE COURT: Will he admit that somebody used a gun?

MR. LI: Yes, your Honor.

THE COURT: Is that right, Vonn?

THE DEFENDANT: Yes.

THE COURT: All right. That's sufficient.

MR. LI: Your Honor, I would also object to the proffer by the Government regarding when Mr. Vonn

vaulted over the counter and demanded money that he had a deadly weapon pointed at a victim teller. He will admit that he vaulted over the [11] counter and demanded money.

THE COURT: All right. I note that, and I accept it without the deadly weapon allegation because I understand that is disputed.

Otherwise, do you accept that, Mr. Vonn?

THE DEFENDANT: Yes.

THE COURT: Counsel, you agree?

MR. LI: Yes, your Honor.

THE COURT: All right. The Court finds a legal and a factual basis for the plea; the Court finds that the waivers of the Constitutional Rights are freely, voluntarily, and intelligently made; the Court finds the plea is provident.

Alphonso Vonn, to the indictment, armed bank robbery, Count One, how do you plead, sir?

THE DEFENDANT: Guilty.

THE COURT: Guilty Plea is accepted by the Court.

We have to put the matter over a little longer, Counsel, because we have to have a trial on the other count, which won't occur until June, at the earliest.

How about a September date for sentencing? By the time we have the trial on the other count, and we let

the probation officer then get the case, that will be about something like 10 or 12 weeks after the trial.

Is that agreeable?

MR. LI: Yes, Your Honor.

THE COURT: Sentencing in this case will be set for Monday, September 15, at 1:30.

Now I want to set a date for the trial on the second count. Do you have a case on him on the second count? Do you have a case on Vonn on the second count?

MS. LU: Yes, your Honor.

THE COURT: Are we wasting our time, or can you really prove he personally used a gun?

MS. LU: Yes, your Honor. The Government expects to prove this at the time of trial.

THE COURT: What evidence do you have?

MS. LU: Victims, victim tellers at the bank. Eye-witnesses.

THE COURT: Victims are going to say he had a gun?

MS. LU: Yes, Your Honor.

THE COURT: All right. How about—

MR. LI: Your Honor—

THE COURT: Let's see. Jury trial is set for June 10th. We can just leave it on the calendar for June 10th, then, for trial.

MR. LI: Yes, your Honor.

MS. LU: Very well.

THE COURT: That will be the order then. The trial will remain as set for June 10th, on Count Two, and the sentencing date will remain as set by the Court.

We'll see you back here on June 10th.

MR. LI: Thank you, Your Honor.

MS. LU: Thank you, Your Honor.

THE COURT: Thank you, Counsel.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

No. CR 96-233-JMI

HONORABLE JAMES M. IDEMAN,
UNITED STATES DISTRICT JUDGE

UNITED STATES OF AMERICA, PLAINTIFF

vs.

ALPHONSO VONN AND GREGORY LEE TURNER,
DEFENDANTS

STATUS CONFERENCE

Monday, June 9, 1997

THE CLERK: Item No. 15, CR 97-233-JMI, United States of America versus Alphonso Vonn and Gregory Lee Turner.

Counsel.

MS. LU: Good afternoon, Your Honor. Elaine Lu appearing on behalf of the United States.

MR. LI: Good afternoon, Your Honor. Derek Li appearing with Alphonso Vonn, who is present.

MR. DEITCH: Phillip Deitch appears with Mr. Turner. He is before the Court.

THE COURT: I have been informed counsel are in trial and have agreed upon a date for the re-trial—sorry—for the trial. The date which has been agreed to is August the 12th.

Is that agreeable with you, Mr. Turner?

DEFENDANT TURNER: Yes, sir.

THE COURT: Mr. Vonn?

DEFENDANT VONN: Yes.

THE COURT: That will be the order. The Court will ask the marshal to see if it's possible to continue to house the defendants at the MDC pending trial.

That was your request, was it not?

MR. LI: Yes, it is, Your Honor.

THE COURT: Thank you.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

No. CR 97-233-(A)-JMI

UNITED STATES OF AMERICA, PLAINTIFF

v.

ALPHONSO VONN AND GREGORY LEE TURNER,
DEFENDANTS

FIRST SUPERSEDING INDICTMENT

(18 U.S.C. § 371: Conspiracy; 18 U.S.C. § 2113(a)(d): Armed Bank Robbery; 18 U.S.C. § 2(a): Aiding and Abetting; 18 U.S.C. § 924(c): Using and Carrying a Firearm During a Crime of Violence)

[May 1997 Grand Jury]

The Grand Jury charges:

COUNT ONE

[18 U.S.C. § 371]

A. OBJECTS OF THE CONSPIRACY

Beginning on an unknown date and continuing to on or about February 27, 1997, in Los Angeles County, within the Central District of California, defendants,

ALPHONSO VONN and GREGORY LEE TURNER, and others known and unknown to the Grand Jury, including co-conspirator James Andre Cox, conspired and agreed with each other to knowingly and intentionally commit bank robbery of the Farmers and Merchants Bank ("the Bank"), 1401 Long Beach Blvd., Long Beach, California, in violation of Title 18, United States Code, Section 2113(a).

B. MEANS BY WHICH THE OBJECT OF THE CONSPIRACY WAS TO BE ACCOMPLISHED

The object of the conspiracy was to be accomplished in substance as follows:

1. Defendants VONN and TURNER and co-conspirator Cox would each carry a handgun and enter the Bank together.

2. Defendant VONN would vault over the teller counter and demand money at gunpoint from the tellers.

3. Defendant TURNER and co-conspirator Cox would point handguns at tellers and customers.

4. Defendant VONN would flee from the Bank with the stolen money and enter a get-away vehicle.

5. Defendant TURNER and co-conspirator Cox would flee from the Bank and enter a get-away vehicle together with defendant VONN.

6. Co-conspirator Cox would drive defendants VONN and TURNER away from the Bank with the stolen money.

C. OVERT ACTS

In furtherance of the conspiracy and to accomplish the object of the conspiracy, on or about February 27, 1997, defendants VONN and TURNER and co-conspirator Cox, and others known and unknown to the Grand Jury, committed various overt acts within the Central District of California, including but not limited to the following:

1. Defendants VONN and TURNER and co-conspirator Cox entered the Farmers and Merchants Bank at 1401 Long Beach Blvd., Long Beach, California together.

2. Defendant VONN possessed a gun while in the Farmers and Merchants Bank.

3. Defendant TURNER possessed a gun while in the Farmers and Merchants Bank.

4. Co-conspirator Cox possessed a gun while in the Farmers and Merchants Bank.

5. Defendant VONN vaulted over the teller counter.

6. Defendant VONN pointed a gun at Farmers and Merchants Bank teller Audra Greer.

7. Defendant VONN demanded money from Farmers and Merchants Bank teller Audra Greer.

8. Defendant VONN pointed a gun at Farmers and Merchants Bank teller Lorida Lee Parker.

9. Defendant VONN demanded money from Farmers and Merchants Bank teller Lorida Lee Parker.

10. Defendant VONN took money belonging to Farmers and Merchants Bank.

11. Defendant TURNER and co-conspirator Cox pointed guns at customers and tellers in the Farmers and Merchants Bank.

12. Defendants VONN and TURNER and co-conspirator Cox ran out of the Farmers and Merchants Bank.

13. Defendants VONN and TURNER and co-conspirator Cox jumped into a white van.

14. Co-conspirator Cox drove the white van away from the bank with defendants VONN and TURNER.

COUNT TWO

[18 U.S.C. § 2113(a)(d); 18 U.S.C. § 2(a)]

On or about February 27, 1997, in Los Angeles County, within the Central District of California, defendant GREGORY LEE TURNER, and ALPHONSO VONN and James Andre Cox, aiding and abetting each other, by force, violence and intimidation, knowingly took from the person or presence of another approximately $209.00 belonging to and in the care, custody, control, management, and possession of Farmers and Merchants Bank, 1401 Long Beach Boulevard, Long Beach, California, a bank the deposits of which were then insured by the Federal Deposit Insurance Corporation.

In committing said offense, defendants assaulted and put in jeopardy the life of victim teller Lorida Lee Parker and others by using a gun, a dangerous weapon and device.

COUNT THREE

[18 U.S.C. § 924(c)]

On or about February 27, 1997, in Los Angeles County, within the Central District of California, defendants ALPHONSO VONN and GREGORY LEE TURNER, and James Andre Cox, knowingly used and carried a firearm, namely, a handgun, during and in relation to a crime of violence, namely, armed bank robbery and conspiracy to commit bank robbery of Farmers and Merchants Bank, 1401 Long Beach Boulevard, Long Beach, California, in violation of Title 18, United States Code, Sections 2113(a)(d) and 371.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

No. CR 96-233(A)-JMI

UNITED STATES OF AMERICA, PLAINTIFF

v.

ALPHONSO VONN, DEFENDANT

CHANGE OF PLEA

[September 3, 1997]

Before: Honorable James M. Ideman, United States District Judge.

[3] THE CLERK: Number two, CR 97-233(A)-JMI, United States of America versus Alphonso Vonn.

Counsel, appearances, please.

MS. LU: Good afternoon, Your Honor. Elaine Lu on behalf of the United States.

MR. LI: Good afternoon, Your Honor. Derek Li appearing with Alphonso Vonn, who is present.

THE COURT: What is the plea agreement here?

MR. LI: There's no plea agreement, but Mr. Vonn is going to plead to Count One and Three of the first superseding indictment.

THE COURT: Is that agreeable to the Government?

MS. LU: Yes, your Honor.

THE COURT: Swear the defendant, please.

THE CLERK: Sir, the judge is going to ask you some questions. You need to be put under oath. Would you please raise your right hand.

Do you solemnly swear that the questions put to you will be the truth, the whole truth, and nothing but the truth, so help you God?

THE DEFENDANT: Yes, ma'am.

[4] THE COURT: Mr. Vonn, are you pleading guilty freely and voluntarily?

THE DEFENDANT: Yes, sir.

THE COURT: Anybody force you to do this?

THE DEFENDANT: No, sir.

THE COURT: Would the Government inform Mr. Vonn as to what you'd have to prove on those two counts to authorize his guilty plea and also what the maximum punishment would be.

MS. LU: Yes, your Honor.

In order for defendant to be guilty of violating 18 U.S.C. section 371, which is Count One, the Government must prove each the following elements beyond a reasonable doubt: That defendant Vonn conspired and

agreed with Gregory Lee Turner and James Andre Cox to commit armed robbery of a Farmers and Merchants Bank, at 1401 Long Beach Boulevard, Long Beach, California; two, that defendant Vonn became a member of the conspiracy knowing at least one of its objects and intending to help accomplish it; and, three, in furtherance of the conspiracy, one of the members of the conspiracy must have committed an overt act within the Central District of California.

In order for the defendant to be proven guilty of Count Three, violating 18 U.S.C. section 924(c), the Government must prove each of the following elements beyond a reasonable doubt:

One, defendant Vonn committed the armed robbery of [5] Farmers and Merchants bank at 1401 Long Beach Boulevard, and two, that defendant Vonn knowingly used or carried a firearm during and in relation to that armed robbery.

Alternatively, defendant Vonn may be held vicariously liable under a *Pinkerton* theory, which is a co-conspirator's reasonable and foreseeable use or carrying of a firearm in furtherance of their conspiracy.

In order for the defendant to be guilty of 18 U.S.C. 924(c) under this theory, the Government must prove each of the following elements beyond a reasonable doubt: That the firearm was used or carried in furtherance of the conspiracy to commit armed robbery; that the use or carrying of a firearm was within the scope of the conspiracy to commit armed robbery; and that defendant Vonn could reasonably have foreseen that it was a necessary or natural consequence of the

conspiracy to commit armed robbery that one of the participants would use or carry a firearm.

The statutory maximum sentences that the Court can impose are as follows. For conviction of 18 U.S.C. section 924(c): A five-year period of incarceration or a 20-year period of incarceration if defendant was previously convicted of a violation of 18 U.S.C. section 924(c), plus a three-year period of supervised release, a fine of $250,000, and a special assessment of $100.

For conviction of 18 U.S.C. section 371: 20 years [6] incarceration, three-year period of supervised release, $250,000 fine, and a special assessment of $100.

Accordingly, the total maximum sentence for the offenses to which defendant Vonn is pleading guilty, plus the offense to which he has already plead had guilty, is 50 years incarceration, assuming that he's not previously been convicted of violation 18 U.S.C. section 924(c), plus an 11-year period of supervised release, a fine of $750,000, and a special assessment of $300.

Your Honor, may I inform the defendant of the mandatory minimum sentence?

THE COURT: Right.

MS. LU: For conviction of 18 U.S.C. section 924(c), the mandatory minimum sentence is five years incarceration, or 20 years incarceration if the defendant is previously convicted of a violation of 18 U.S.C. section 924(c). This sentence imposed pursuant to section 924(c) must run consecutive to any other sentence that the defendant receives for his violation of 18 U.S.C. section 371 and 2113.

THE COURT: Vonn, those are the maximum sentences. You won't get the maximum sentence, I'm sure, but you'll get a sentence that I determine is something that is consistent with the Sentencing Guidelines. I don't have any idea right now what that will be. I don't know enough about you or what you did here. But I won't let you withdraw your guilty plea because you [7] don't like the sentence.

Do you understand?

THE DEFENDANT: Yes, sir.

THE COURT: There was a previous plea in this case, wasn't there?

MS. LU: Yes, there was, Your Honor. The defendant has already pleaded guilty to armed bank robbery. Today he is entering his guilty plea to conspiracy, as well as 924(c), carry—use and carrying a firearm during that—

THE COURT: Which count did he plead to before?

MS. LU: Armed bank robbery, the substantive count, Your Honor.

THE COURT: Which count?

MS. LU: That was Count One of the original indictment.

THE COURT: This is the superseding indictment?

MS. LU: Yes, it is, your Honor.

THE COURT: All right.

Mr. Vonn, you'll be giving up certain rights which you enjoy if you plead guilty. They are as follows:

You have the right not to incriminate yourself, and you will incriminate yourself if you plead guilty.

Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: You have the right to a trial by a judge or by a jury.

[8] Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: You have the right to confront and cross-examine witnesses who may testify against you at your trial.

Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: You have the right to present evidence on your own behalf at your trial.

Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: Do you waive your rights?

THE DEFENDANT: Yes, sir.

THE COURT: Counsel, do you concur in the waivers of the Constitutional Rights?

MR. LI: Yes, I do.

THE COURT: Do you believe there's a legal and a factual basis for the plea?

MR. LI: Yes, your Honor.

THE COURT: Mr. Vonn, for me to accept your guilty plea, I have to have a little detail from you as to what actually happened here. The easiest way is for the U.S. Attorney to tell me what the evidence would be at your trial, if there was a trial. Listen to what she says and see if that is your understanding of what happened.

[9] MS. LU: All right, Your Honor.

On February 27, 1997, at approximately 10:00 a.m., the defendant, Alphonso Vonn, with co-defendants James Andre Cox and Gregory Lee Turner, entered Farmers and Merchants Bank, located at 1401 Long Beach Boulevard, Long Beach, California.

Before entering the bank, Defendant Vonn had agreed with Turner and Cox to commit armed robbery at the bank. Defendant Vonn knew that Cox and Turner would actively display their guns in the commission of this bank robbery.

Once inside the bank, defendant Vonn yelled words to the effect of, "This is a holdup. Get down."

While Cox and Turner pointed handguns at tellers and customers, defendant Vonn vaulted over the counter, demanded money at gunpoint from the victim teller and directed the victim teller to place money into a large canvas bag.

Defendant Vonn saw Cox and Turner pointing their guns at tellers and customers to hold them at bay while

he, defendant Vonn, continued to demand money from the victim teller.

Defendant Vonn then took approximately $209 belonging to Farmers and Merchants Bank and ran out of the bank with Cox and Turner.

At the time of the robbery the deposits of the Farmers and Merchants Bank were insured by the FDIC.

Defendant Vonn and his fellow bank robbers, Cox and Turner, each carried and used a gun by brandishing it during the [10] robbery. The guns included a loaded and operational .380 caliber semiautomatic pistol and a loaded and operational .357 caliber revolver.

The Government would have proven these facts through the testimony of victim tellers, surveillance photographs of excellent quality, evidence that all $209 of bait money was recovered from defendant Vonn's sock after a high-speed pursuit from the bank, and, finally, defendant Vonn's post-arrest Mirandized statement.

THE COURT: Is that the way it was, Vonn?

THE DEFENDANT: The bank robbery, sir, but not the guns. I didn't know they were carrying weapons until we entered the bank, sir.

THE COURT: Other than that, you agree?

THE DEFENDANT: Yes—and I wasn't the one who yelled, "Get down," but everybody else is true, Your Honor.

THE COURT: Okay.

The Court finds a factual basis for the plea. The Court finds the waivers of the Constitutional Rights are freely, voluntarily, and intelligently made. The Court finds that the pleas are provident.

MS. LU: Your Honor?

THE COURT: What?

MR. LU: If we could—I don't know remember hearing the Court inform the defendant of his right to assistance of [11] counsel.

THE COURT: I didn't because is represented by counsel.

How do you plead to Counts One and Three, Mr. Vonn?

THE DEFENDANT: Guilty, Sir.

THE COURT: The guilty plea is accepted by the Court.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

No. CR-97-233(A)-JMI

UNITED STATES OF AMERICA, PLAINTIFF

v.

ALPHONSO VONN, DEFENDANT

DEFENDANT'S MOTION FOR WITHDRAWAL OF GUILTY PLEA AS TO COUNT III

[June 8, 1998]

BEFORE: HONORABLE JAMES M. IDEMAN
UNITED STATES DISTRICT JUDGE.

[4] THE CLERK: Item No. 22, CR-97-233(a)-JMI, United States of America versus Alfonso Vonn.

Counsel, please state your appearances.

MS. LU: Good afternoon, Your Honor. Elaine Lu appearing for the United States.

MR. LI: Good afternoon, Your Honor. Derek Li appearing with Alfonso Vonn who is present.

THE COURT: All right. There is a motion pending for the defendant to withdraw his guilty plea. I read your motion and I read the government's opposition.

Is that matter submitted?

MR. LI: No, Your Honor. I would like to respond to the Government's arguments, if I may.

THE COURT: Keep it brief if you would.

MR. LI: Yes, Your Honor. The Government's argument is that Mr. Vonn has not shown that he plead—that the wish to withdraw his guilty plea was ignorance, fear and inadvertent [*sic*]. What happened here, your Honor, is Mr. Vonn plead guilty due to a mistake. He factually believed that he was not guilty of 924(c) and he plead guilty to it. And what's most telling in this case, it does not achieve [5] heart on Mr. Vonn's heart. [*sic*] What's most telling is that we reviewed the transcripts of this case. When he plead guilty to the armed bank robbery, one of the specific objections that the defense made was whether or Mr. Vonn actually carried a gun inside the bank.

THE COURT: And but wasn't that aiding and abetting others in doing so?

MR. LI: Yes, your honor. And during the second change of plea for 924(c), specifically, the government went into a long recitation of facts and the recitation does say something about the fact that the defendant Vonn and the other defendants each carried and used a gun. But, your honor, I think the context of an enormous representation of facts sometimes the defendant may not listen as carefully as he should have, but was trying to—the judgment he made to the Court

was that going to the bank the first time that he knew about the bank and that he knew about the guns carried by co-defendants.

What it indicates is that it wasn't until Mr. Vonn actually entered the van that the gun was being used. And what he is saying to the court, your honor, is number 1, he did not have the gun, even though the government intends to put on tellers to [6] indicate that that gun was seen in Mr. Vonn's hands. He didn't know about the guns until the time of the bank robbery.

Now while under the Pinkerton theory or under the conspiracy theory that a person can reasonably foresee the other defendants had used the gun, that person can be liable for 924(c). That is really a jury question as to what is reasonably foreseeable. While there may be factual basis for the court, would there be a factual basis for the government to seek permission, that what he is saying he was mistaken?

He was factually not guilty of the offense; and therefore, he is not to depart. [*sic*] He is basically raising before the Court, he made a mistake in the plea, and we would ask the Court to allow him to withdraw his plea.

THE COURT: All right. The court finds that the defendant under oath clearly, fairly indicated his guilt on this count. The court has read the supporting documents, including the probation report. It's clear that the people involved in this all used guns. The intention of the defendant that he didn't use the gun, he didn't know that anyone else was going to use the gun was [7] clearly—clearly not tenable.

And in addition to that, the government has indicated that the disadvantage by any change of this late date, that the motion to withdraw the—the plea is untimely, and that the government will be damned if they have to have a retrial. But it's just as clear as can be that all parties prepared to use guns, and so did the defendant. So the defendant's motion of withdrawing his guilty plea is denied.